

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

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|--------------|---|-------------|
| XAVAR TYLER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | 1:22-cv-790 |
| |) | |
| UNKNOWN, |) | |
| |) | |
| Defendant. |) | |

ORDER

On October 31, 2022 the United States Magistrate Judge's Order and Recommendation ("Recommendation") was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. (Docs. 2, 3.) In the Recommendation, the Magistrate Judge recommends that this action be filed and dismissed sua sponte without prejudice to Plaintiff filing a new action on the proper forms. No objections were filed within the time prescribed by Section 636. However, Plaintiff filed a pro se "letter of Emergency" requesting the appointment of counsel. (Doc. 4.)

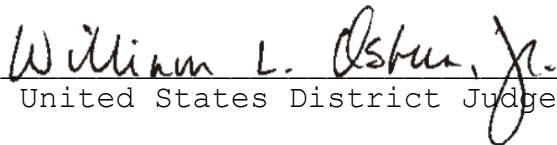
Therefore, the court need not make a de novo review and the Magistrate Judge's Recommendation is hereby adopted. In light of adopting the Recommendation and dismissing this action without prejudice, Plaintiff's letter request for the appointment of counsel will be denied as moot.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 2), is **ADOPTED. IT IS FURTHER ORDERED** that this action be filed, and is hereby, **DISMISSED** sua sponte without prejudice to Plaintiff filing a new action, on the proper forms, which corrects the defects cited in the Magistrate Judge's Order and Recommendation.

IT IS FURTHER ORDERED that Plaintiff's "letter of Emergency" requesting the appointment of counsel, (Doc. 4), is **DENIED AS MOOT.**

A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 23rd day of May, 2023.


United States District Judge